

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

JANICE GOLDMAN, Individually and On
Behalf of All Others Similarly Situated,.

Plaintiff,

V.

TAPESTRY, INC. and KATE SPADE, LLC,

Defendants.

) Case No. 4:20-cv-00748-RWS
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) Hon. Chief Judge Rodney Sippel
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MOTION TO DISMISS PURSUANT TO RULES 12(b)(1) AND 12(b)(6)

Defendants Tapestry, Inc. and Kate Spade LLC (collectively, “Kate Spade”), for their
Motions pursuant to Federal Rules of Civil Procedure (“FRCP”) 12(b)(1) and 12(b)(6), state:

1. Plaintiff's class allegations related to products that she does not allege she purchased should be dismissed because she lacks standing to assert claims as to those products on behalf of the proposed class.
2. Plaintiff's claim for violation of the Missouri Merchandising Practices Act ("MMPA") (Count I) should be dismissed because Plaintiff has failed to plead an ascertainable loss.
3. Plaintiff's claim for violation of the MMPA (Count I) should be dismissed because Plaintiff has failed to plead that Kate Spade used a deceptive practice in connection with its advertising.

4. Plaintiff's claim for violation of the MMPA (Count I) and for unjust enrichment (Count II) should be dismissed because Plaintiff has failed to allege a non-speculative claim for relief under FRCP 8(a) or plead her claims with sufficient particularity under FRCP 9(b).

5. Kate Spade incorporates by reference its contemporaneously-filed Memorandum in Support.

WHEREFORE, Kate Spade requests that the Court enter an Order dismissing the Petition in its entirety without leave to amend.

Dated: July 31, 2020

By /s/ Matthew J. Reh

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CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2020, a copy of the foregoing was filed electronically with the Clerk of the Court using the CM/ECF system, and that notice of this filing will be sent to counsel of record for the parties by operation of the Court's electronic filing system.

/s/ Matthew J. Reh